

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Murray F. BROOM

Title: SAMPLING DEVICE

Appl. No.: 10/568,705

International 8/20/2004

Filing Date:

371(c) Date:

Examiner: Unassigned

Art Unit: Unassigned

Conf. No.: 4849

PETITION UNDER 37 C.F.R. § 1.47(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.47(b) and the guidelines set forth in M.P.E.P. § 409.03, a request is hereby made to include Murray Frederick Broom as the sole inventor of the above-identified application even though he refuses to join in the application by signing an oath or declaration complying with 37 C.F.R. § 1.63.

A declaration complying with 37 C.F.R. § 1.63 executed by Diana F. Hill, the Chief Executive Officer of the Assignee, Global Technologies (NZ) Limited, is included herewith.

Below is a description of the pertinent facts explaining Mr. Broom's refusal to join in the subject application, as well as his last known address.

1. The named inventor of the above-identified application is: Murray Frederick Broom.

2. The last known address of Murray Frederick Broom is: 6 Pleasant Place, Dunedin, New Zealand.

3. The following attempts were made to contact Mr. Broom to inform him that his signature was needed on a declaration complying with 37 C.F.R. § 1.63 in connection with the above-identified application which steps are supported in the attached Statement of Facts in Support of Petition under 37 C.F.R. § 1.47(b) of Diana F. Hill.

a. On March 29, 2006, copies of the above-referenced application, amended claims, an assignment document and a declaration complying with 37 C.F.R. § 1.63 were sent to Mr. Broom from Diana F. Hill, the Chief Executive Officer of Global Technologies (NZ) Limited, by courier mail. Copies of the letter, the assignment and declaration are attached to Ms. Hill's Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47(b).

b. On April 3, 2006, Ms. Hill received a telephone call from Mr. Broom in which he advised her that he would not sign the documents because of two concerns:

- As assignor he would be held responsible for all aspects of the invention in the future; and
- He believes he is entitled to a financial return.

c. As of the date of this petition, no signed documents regarding the above-captioned application have been received from Mr. Broom, nor are they anticipated.

4. Mr. Broom assigned the parent PCT application and New Zealand priority application to Global Technologies (NZ) Limited. Copies of the assignments are attached to Ms. Hill's Statement. The assignments are submitted as *prima facie* evidence that the invention has been assigned to Global Technologies (NZ) Limited. It is further submitted that the filing of this application is necessary to preserve the rights of Global Technologies (NZ) Limited in this invention. See MPEP § 409.03(g).

5. In view of Mr. Broom's written refusal to execute a declaration, the undersigned petitions the U.S. Patent and Trademark Office, in accordance with 37 C.F.R. § 1.47(b) to accept the accompanying declaration from the other joint inventors.

The fee for this Petition is \$130.00. A credit card payment for this amount is enclosed herewith. The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed

herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

The undersigned declares further that all statements made herein are true and that all statements made herein on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

If there are any questions regarding the above, please contact the undersigned.

Respectfully submitted,

Date 10 August 2006

By R. Brian McCaslin

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5480
Facsimile: (202) 672-5399

R. Brian McCaslin
Attorney for Applicant
Registration No. 48,571

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

SAMPLING DEVICE

(Attorney Docket No. 061967-0103)

the specification of which (check one)

is attached hereto.

was filed on February 17, 2006 as United States Application Number 10/568,705 and was amended on February 17, 2006 (if applicable).

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with

which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?
527759	New Zealand	8/21/2003	Yes	

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number
	PCT/NZ2004/000191	08-20-2004	

I HEREBY APPOINT the registered attorneys and agents at Customer Number
22428

to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

I request that all correspondence be directed to:

R. Brian McCaslin
FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5480
Facsimile: (202) 672-5399

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Name of first inventor	Murray Frederick BROOM
Residence	Dunedin, New Zealand
Citizenship	New Zealand
Post Office Address	6 Pleasant Place Dunedin New Zealand
Inventor's signature	
Date	

Signature of Diana F. Hill, Chief Executive Officer of Global Technologies (NZ) Limited, on behalf of Murray Frederick Broom, in accordance with 37 C.F.R. § 1.47(b) and M.P.E.P. § 409.03(b)(A):

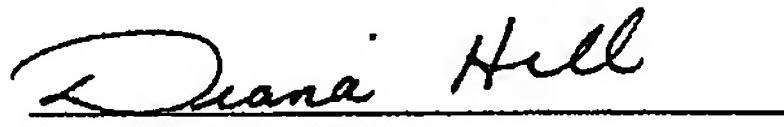
 Date: 2 August 2006
Diana F. Hill

Statement of Facts in Support of Petition under 37 C.F.R. § 1.47(b)

I, DIANA F. HILL, hereby declare the following:

1. I am the Chief Executive Officer of Global Technologies (NZ) Limited ("Global Technologies") of Dunedin, New Zealand.
2. Murray Frederick Broom was an employee of Global Technologies from 2 February 2004 to 31 December 2004.
3. During his employment at Global Technologies, Mr. Broom invented the invention described and claimed in United States patent application number 10/568,705 ("the patent application").
4. Mr. Broom has refused to sign any and all documentation in relation to the patent application. In particular, he has refused to sign a Declaration and Power of Attorney form and an Assignment document.
5. Mr. Broom executed a deed of assignment dated 20 August 2004 in relation to the PCT patent application from which the patent application is derived. Mr. Broom also executed a deed of assignment dated 21 August 2003 in relation to the originating New Zealand patent application which is the priority application for the patent application. Copies of both deeds of assignment are attached.
6. On 29 March 2006, I sent an Assignment document, a Declaration and Power of Attorney document, a copy of the patent specification, a copy of an amended claim set, and a letter dated 29 March 2006 to Mr. Broom by courier mail to his home address of 6 Pleasant Place, Dunedin, New Zealand. Copies of the Assignment, the Declaration and Power of Attorney, and the letter are attached.
7. On 3 April 2006, I received a telephone call from Mr. Broom. He advised me that he would not sign the documents for the following reasons:
 - He believes that as assignor he would be held responsible for all aspects of the invention in the future; and
 - He believes he is entitled to a financial return.
8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

2 August 2006
Date


DIANA F. HILL

COPY

DEED OF ASSIGNMENT

THIS DEED made effective as of the 20th day of August 2004

BETWEEN **MURRAY FREDERICK BROOM**, a New Zealand citizen of 6 Pleasant Place,
Dunedin, New Zealand
(the Assignor)

AND **GLOBAL TECHNOLOGIES (NZ) LTD**, a New Zealand company of Floor 1, 218
George Street, Dunedin, New Zealand
(the Assignee)

WHEREAS the Assignor is the inventor of an invention entitled **SAMPLING DEVICE** (the Invention), which is the subject of PCT Application No. PCT/NZ04/000191 (the PCT Application).

AND WHEREAS the Assignor has agreed with the Assignee that his whole right, title and interest to and in the Invention and the PCT Application is vested in the Assignee.

AND WHEREAS the Assignor agrees that his whole right, title and interest to and in any patent application filed in any country of the world and any Letters Patent issued thereon for the invention is vested in the Assignee, including any copyright in copyright works related to the Invention (the Copyright).

AND WHEREAS the parties wish to confirm this in writing and for the consideration herein stated.

NOW THIS DEED WITNESSES that in consideration of the sum of one dollar (\$1.00) paid by the Assignee to the Assignor, the receipt of which the Assignor hereby acknowledges.

THE ASSIGNOR DOES HEREBY ASSIGN and transfer unto the Assignee his whole right, title and interest to and in the Invention, the PCT Application and any Letters Patent granted thereon, and the Copyright, and to the use of the Assignee and the Assignee's successors and assigns absolutely.

AND THE ASSIGNOR AGREES to do all such things and to execute without further consideration any and all documents necessary to enable the Assignee to pursue all its rights to which it is entitled by virtue of this deed.

IN WITNESS WHEREOF the Assignor and the Assignee each have executed this deed to be effective as of the date mentioned above.

MURRAY FREDERICK BROOM

M J m'Hugh
Witness

N. J. MC HUGH
Name (in Capitals)

20 Marion St
Address

Macandrew Bay
Dunedin

GLOBAL TECHNOLOGIES (NZ) LTD

Diana Hill
Authorised Officer

Diana Hill
Name (in Capitals)

Professor / CEO
Title

M J m'Hugh
Witness

N.J. MC HUGH
Name (in Capitals)

20 Marion St
Address

Macandrew Bay
Dunedin

COPY

DEED OF ASSIGNMENT

THIS DEED made effective as of the 21st day of August 2003

BETWEEN MURRAY FREDERICK BROOM, a New Zealand citizen of 6 Pleasant Place,
North East Valley, Dunedin, New Zealand
(the Assignor)

AND GLOBAL TECHNOLOGIES (NZ) LTD, a New Zealand company of Floor 1, 218
George Street, Dunedin, New Zealand
(the Assignee)

WHEREAS the Assignor is the inventor of an invention entitled **SAMPLING DEVICE** (the Invention), which is the subject of a New Zealand patent application filed on 21 August 2003 (the Patent Application).

AND WHEREAS the Assignor has agreed with the Assignee that his whole right, title and interest to and in the Invention and the Patent Application is vested in the Assignee.

AND WHEREAS the Assignor agrees that his whole right, title and interest to and in any patent application filed in any country of the world and any Letters Patent issued thereon for the Invention is vested in the Assignee, including the right to claim priority from the Patent Application under the Paris Convention, the PCT or any other treaty to which New Zealand belongs (the Foreign Rights), and including any copyright in any original artistic and literary works related to the Invention (the Copyright).

AND WHEREAS the parties wish to confirm this in writing and for the consideration herein stated.

NOW THIS DEED WITNESSES that in consideration of the sum of one dollar (\$1.00) paid by the Assignee to the Assignor, the receipt of which the Assignor hereby acknowledges.

THE ASSIGNOR DOES HEREBY ASSIGN and transfer unto the Assignee the whole right, title and interest to and in the Invention and the Patent Application and any Letters Patent granted thereon, to and in the Foreign Rights, and to and in the Copyright, and to the use of the Assignee and the Assignee's successors and assigns absolutely.

AND THE ASSIGNOR AGREES to do all such things and to execute without further consideration any and all documents necessary to enable the Assignee to pursue all its rights to which it is entitled by virtue of this Agreement.

IN WITNESS WHEREOF the Assignor and the Assignee each have executed this deed to be effective as of the date mentioned above.

MURRAY FREDERICK BROOM

Witness

Jeanne Atherton
Name (in Capitals)

PO Box 86, Waitati
Address

GLOBAL TECHNOLOGIES (NZ) LTD

Authorised Officer

Name (in Capitals)

Title

Witness

Jeanne Atherton
Name (in Capitals)

PO Box 86, Waitati
Address

PTASS3766596

COPY

GLOBAL TECHNOLOGIES (NZ) LTD
218 GEORGE ST, PO Box 941, DUNEDIN, NEW ZEALAND
T +64 3 474 6620, F +64 3 474 1087, w www.glotec.co.nz



29 March 2006

Murray Broom
6 Pleasant Place
DUNEDIN

Dear Murray

Re: Patent No. PCT/NZ2004/000191 (WO 2005/018461 A1)—Rollerball

The following documents relating to PCT/NZ2004/000191 are enclosed:

Declaration and Power of Attorney
Assignment

It would be appreciated if you could please sign and return these forms to Global Technologies as soon as possible.

Note that the number of claims have been reduced for US and EU filing. These changes are enclosed along with a copy of the patent for your information. If you have any concerns please let me know.

Regards

Yours sincerely,

Diana Hill
CEO

Enclosures:

- Patent PCT/NZ2004/000191 (WO 2005/018461 A1)
- Reduced claims for Europe
- Reduced claims for United States
- Further amendment for United States

COPY

Atty. Dkt. No. 061967-0103

ASSIGNMENT - WORLDWIDE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each undersigned inventor (hereinafter referred to as "ASSIGNOR") has sold, assigned, and transferred, and by these presents hereby sells, assigns, and transfers, unto

Global Technologies (NZ) Ltd.
Floor 1, 218 George St.
Dunedin
New Zealand

(hereinafter referred to as "ASSIGNEE") its successors and assigns, the full and exclusive right, title and interest for the United States, its territories and possessions, and all foreign countries in and to this invention relating to

SAMPLING DEVICE

as set forth in this United States Patent Application

check one [] executed concurrently herewith,
 [] executed on _____,
 [] Serial No. 10/568,705, filed February 17, 2006

as well as in and to (a) all improvements and modifications of the above-identified invention or inventions, (b) the above-identified application and all other applications for Letters Patent of the United States and countries foreign thereto for above-identified invention or inventions and all improvements and modifications thereof, (c) all Letters Patent which may issue from said applications in the United States and countries foreign thereto, (d) all divisions, continuations, reissues, and extensions of said applications and Letters Patent, and (e) the right to claim for any of said applications the full benefits and priority rights under the International Convention and any other international agreement to which the United States adheres; such right, title, and interest to be held and enjoyed by ASSIGNEE, its successors and assigns, to the full end of the term or terms for which any and all such Letters Patent may be granted as fully and entirely as would have been held and enjoyed by ASSIGNOR had this Assignment not been made.

ASSIGNOR HEREBY AUTHORIZES ASSIGNEE to file patent applications in any or all countries on the above-identified invention or inventions in the name of the undersigned or in the name of ASSIGNEE or otherwise as ASSIGNEE may deem advisable under the International Convention or otherwise.

ASSIGNOR HEREBY AUTHORIZES AND REQUESTS the Commissioner of Patents and Trademarks to issue said Letters Patent to ASSIGNEE as assignee of the entire interest, for the sole use and benefit of ASSIGNEE, its successors and assigns.

ASSIGNOR HEREBY AGREES (a) to communicate to ASSIGNEE, its successors and assigns, or their representative or agents, all facts and information known or available to

ASSIGNOR respecting said invention or inventions, improvements, and modifications including evidence for interference, reexamination, reissue, opposition, revocation, extension, or infringement purposes or other legal, judicial, or administrative proceedings, whenever requested by ASSIGNEE; (b) to testify in person or by affidavit as required by ASSIGNEE, its successors and assigns, in any such proceeding in the United States or a country foreign thereto; (c) to execute and deliver, upon request by ASSIGNEE, all lawful papers including, but not limited to, original, divisional, continuation, and reissue applications, renewals, assignments, powers of attorney, oaths, affidavits, and declarations, depositions; and (d) to provide all reasonable assistance to ASSIGNEE, its successors and assigns, in obtaining and enforcing proper title in and protection for said invention or inventions, improvements, and modifications under the intellectual property laws of the United States and countries foreign thereto.

ASSIGNOR HEREBY REPRESENTS AND WARRANTS that ASSIGNOR has the full and unencumbered right to sell, assign, and transfer the interests sold, assigned, and transferred herein, and that ASSIGNOR has not executed and will not execute any document or instrument in conflict herewith.

ASSIGNOR HEREBY GRANTS to the law firm of **Foley & Lardner LLP** the power and authority to insert in this Assignment any further identification which may be necessary or desirable to comply with the rules of the U.S. Patent and Trademark Office for recordation of this Assignment.

ASSIGNOR UNDERSTANDS AND AGREES that the attorneys and agents of the law firm of **Foley & Lardner LLP** do not personally represent ASSIGNOR OR ASSIGNOR's legal interests, but instead represent the interests of ASSIGNEE; since said attorneys and agents cannot provide legal advice to ASSIGNOR with respect to this Assignment, ASSIGNOR acknowledges its right to seek its own independent legal counsel.

Atty. Dkt. No. 061967-0103
Appln. No. 10/568,705

Executed this _____ day of _____, 20____.

MURRAY FREDERICK BROOM

State of _____
County of _____)ss.

On this _____ day of _____, 20____, before me, a notary public in and for said county, appeared MURRAY FREDERICK BROOM, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

COPY

Atty. Dkt. No. 061967-0103

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

SAMPLING DEVICE

(Attorney Docket No. 061967-0103)

the specification of which (check one)

is attached hereto.

was filed on February 17, 2006 as United States Application Number 10/568,705 and was amended on February 17, 2006 (if applicable).

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

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THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with

which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?
527759	New Zealand	8/21/2003	Yes	

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number
	PCT/NZ2004/000191	08-20-2004	

I HEREBY APPOINT the registered attorneys and agents at Customer Number

22428

to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

I request that all correspondence be directed to:

R. Brian McCaslin
FOLEY & LARDNER LLP
Customer Number: 22428

Telephone: (202) 672-5480
Facsimile: (202) 672-5399

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

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Name of first inventor	Murray Frederick BROOM
Residence	Dunedin, New Zealand
Citizenship	New Zealand
Post Office Address	6 Pleasant Place Dunedin New Zealand
Inventor's signature	
Date	

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